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Ottawa's double feature

JONATHAN MARTENS
LL B II

When was the last time you were able to take in a double feature in the nation's capital for only ten dollars? For those of us who made the trip to Ottawa on Tuesday, the back-to-back showing of *Vriend v. Alberta* at the Supreme Court, followed by the organized chaos that is Question Period in the House of Commons, was an entertainment spectacular not to be missed.

The yellow school bus left Old Chancellor Day shortly before 7 am, which may have been a little too early for some, although the condition of the roads ensured that everyone was wide awake within minutes. Upon arriving to the Supreme Court, we were ushered into the Registrar's Office where we watched the appeal unfold on TV in padded luxury. After a year and a half of scrutinizing the judgments of this Court, it was truly enlightening to finally put some faces to the opinions.

Lamer CJC kicked things off with a dynamic reading of the names of the appellants, respondents, and all the inter-

venors — well, not *really* dynamic — actually, the Chief Justice looked kind of sleepy. He stumbled over every name and replaced 'Ms.' for 'Mr.', and vice versa, with remarkable precision. His poker face doesn't reveal a lot, but I think he was just kidding around.

McLachlin and Sopinka JJ. didn't disappoint, both asking the kinds of pointed questions one would expect of judges hoping to write the majority opinion.

Major J. was up to his old tricks - present, but silent. Although I still have no idea what he looks like (the camera only focuses on those who speak), I have no doubt that, whatever the issue, he will inevitably concur.

But it was Gonthier J., in my mind, who took the prize. Halfway through the appellant's argument, he decided to interrupt so he could think out loud for awhile. With all due respect, he just sort of rambled on and on, pausing occasionally as if in deep contemplation of some hitherto unexpressed pro-

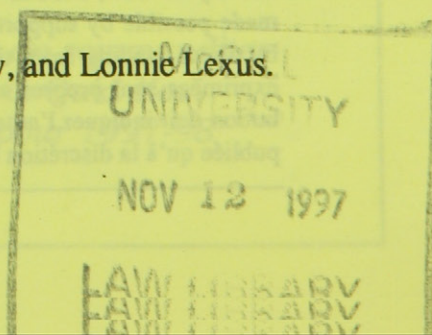
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Top Ten Rejected Mascots for the New Law Library

STEVEN LEITMAN
NAT IV AND WEDDING COORDINATOR

- 10) Larry the Law Report.
- 9) The Associate Dean (Academic) in knickers (rejected by the Associate Dean (Academic)).
- 8) The Lucky Charms leprechaun.
- 7) Belinda Bailiff (Henri L'Huissier).
- 6) Youppi!

- 5) A seven foot replica of the fan in room 102.
- 4) Caffeine Colleen.
- 3) The Quicklaw Rabbit, Soquij Sally, and Lonnie Lexus.
- 2) Injunction Ingrid.
- 1) Stephen Park and the Parkettes.



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O U S

Announcements

MARS is now open to make changes to your winter term course selection. Please take advantage of the time allotted for course change. MARS will close again on Sunday, January 18, 1998.

The proposed convocation list is now posted on the O.U.S. notice board. If you are expecting to graduate in June, please make sure your name is on the list and the proper spelling of your name is used.

Differential tuition fees : SSMU is taking the provincial government to court in order to have the differential tuition fees measure ruled illegal. They will argue that this decision goes against s.6 and s.15 of the Canadian Charter and s.10 of the Quebec Charter. The hearing will be held **December 2nd and 3rd**. SSMU is asking interested students to pick up a letter at the SSMU front desk to send it to your federal MP and the provincial Minister of Education, and to sign a petition (which you will also find at the front desk).

LSA equity strategy planning meeting - your participation needed

On Monday November 10, 1997 at 11:30 am in the Common Room, the LSA will be hosting a planning meeting for developing an LSA Equity Strategy. The focus of this meeting will be on deciding what the LSA should be doing with regards to Equity issues. The LSA is looking for student input to this process, especially from those individuals who have ideas concerning how the LSA should be responding to Equity issues.

One of the general goals of the meeting will be to decide whether we want the LSA to have an Equity Policy. If we decide the answer is yes, then the discussion will focus on establishing a process that will encourage as much participation as possible in the development of an effective policy.

The discussion will also focus on how the LSA as a student association should be promoting the issue of equity on campus. We will analyze the responsibility of the LSA in issues such as harassment, discrimination, and racism. What should the LSA be doing in terms of taking active steps to promote equity. In addition, what should the LSA be doing in terms of responding to the needs of individual students as they arise. These are some of the general issues to be discussed. We strongly encourage anyone interested to attend. If you cannot attend this meeting but want to be involved please contact Mario Nigro at 849-2052.

Upcoming Events

Discussion. The Environmental Law Association brings you a lunchtime presentation and discussion session on "R v. Hydro-Quebec: the Division of Powers and Environmental Protection." Wednesday November 12, 12:30 in the Common Room. Me Claude Joyal from the Department of Justice and Me Helene Gagnon from Martineau Walker will be there.

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Quid Novi

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Written contributions must be submitted in electronic form, in either Microsoft Word 6 or less or WordPerfect 6 or less. Disks or artwork can be left in the Quid Novi box in the LSA office or at the Quid Novi office. Written contributions can also be sent by e-mail. Deadline is each Wednesday at 12:00.

THE LAND DOWN UNDA²

DOMINIQUE LAPIERRE &
STEPHANIE JOHNSON
NAT IV

Driving Right Down Under

La route en Australie c'est toute une experience! On vous en aurait parle plus tot (on est sur que vous vous posez la question sur la conduite a gauche!) mais ce n'est que le weekend dernier (le weekend de votre premiere tempete de neige d'ailleurs!) que nous avons vecu la joie des volants a droite. C'est par une belle journee de 30 degres ensoleillee que nous avons entrepris une petite excursion pour faire visiter les montagnes et les vignobles environnants a notre ami Richard (eh oui Richard etait débarque de Sydney pour le weekend!!!).

First of all, let's talk about the car. Normally, we wouldn't bother, but it brings up two interesting points. One, it was a Daewoo Cielo. This goes to show that you find types of cars which don't exist in North America. Australia even has its own Ford-type car: the Holden. Two, our car was yellow. Bright yellow. Once we got over the shock we realized that this was a good thing. Increased visibility means less chance of an accident.

Speaking of which, we're glad to report that we didn't have one, but Dom and Richard got to see trees and poles from up close. We even felt what it was like to drive over gravel on the side of the road (ce qui se traduit par "accotement"). Mais tout de meme Steph a controle la situation d'une main de maitre! Les "wipers" sont partis une couple de fois (n'oubliez pas, il n'y avait pas une

goutte de pluie!) et elle a meme essaye de changer de vitesse avec sa poignee de fenetre. Au moins, elle n'a pas confondu le "reverse" et la premiere vitesse!

Going out of the city was an experience in and of itself. You see, they haven't discovered freeways in cities yet. Translation: it takes an hour to drive 40 km to get out of the city. And that's when there's no traffic. It took that much longer because after discovering why tram tracks and bicycle wheels don't mix, Stephanie was so paranoid she was trying to avoid the tracks with the car!

En ce qui concerne les panneaux de circulation, il y en a a saveur locale. C'est le moins qu'on puisse dire. Kangaroo crossing, koala crossing, camel crossing, wildlife crossing with pictures of turtles and ducks. Did you know that when it's written "kangaroo next 30 km" it actually means "kangaroo roadkill next 30 km"? Talk about getting a close look at the local wildlife.

Avant de terminer ca vaut la peine de partager avec vous l'experience d'etre pietons. Remarquez que ca peut tout aussi bien s'appliquer aux automobilistes ou aux cyclistes. La premiere chose qu'on s'est fait dire en arrivant c'est qu'au moins un etudiant d'echange par annee se fait ramasser par un tram. Laissez nous vous dire qu'on regarde moult fois des deux cotes de la rue (on ose meme dire qu'on regarde en avant

puis en arriere). Et pas question de faire du "jay-walking"! Si vous pensez que les automobilistes sont fous a Montreal parce qu'ils ne ralentissent pas ben, ici, ils accelerent quand ils vous voient arriver. On est LOIN de Vancouver ou les gens arretent quand vous avez l'air de penser a vouloir peut-etre traverser...

En plus d'avoir importe de l'Angleterre l'art de la conduite a gauche, les Australiens ont eu le malheur de flanquer des maus de "roundabout" de l'enfer a tous les calines de coins de rue. Ils osent nous dire qu'il y a moins d'accidents a cause de ca. Il n'y a vraiment rien a comprendre surtout qu'ils ne savent meme pas ce que veut dire "ceder le passage". Un, deux trois, go, on se ferme les yeux et on fesse dans le tas! Ca doit etre ca le truc parce qu'on est toujours en vie! Remarquez qu'on devrait pas parler trop vite. Les lumieres de pietons ont un petit "tic tac" vraiment gossant pour avertir les aveugles que c'est le temps de traverser. La joke c'est que le tic tac est tellement fort qu'on se fout dans la rue meme si c'est le poteau de l'autre coin de rue qui brasse.

Stay tuned for our last aussie column on travelling around Australia. And given that Dom will try to learn to drive manual on the other side of the road

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Fier de commanditer
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pour 1997-98

Coffee house, yes please!

STEVE KELLY
NAT IV
LSA PRESIDENT

OK, so I write this article every year about this time but I'm doing it again and I don't care. The essence of my message is this: I was standing at Coffee House a couple weeks ago and wondering where everyone was? I can't figure it out, we have one of the most unique, enjoyable, and Faculty-supported events of any Canadian law school and people still choose not to attend. If you haven't been, come and check it out; if you've only been once and were not sure, try it again; if you never liked it, well my argument is dead for you.

All I want to emphasize is that we have a long, proud, and unique tradi-

tion, which a lot of people put a lot of effort into organizing every week. You can just drop by for a chat, a beer or innumerable beers. Give it a try, especially 1st and 2nd years.

In that light, this schedule is worth putting up on the ceiling above your bed so you can think about it every night before bed:

Nov 13 **First Ever Alumni Coffee House.** Come catch up with former graduates from all over the place who can tell you how much they miss coffee house.

Nov 20 **The McGill Legal Info Clinic Coffee House.** Watch fearless directors of the Clinic serve a couple free beers to all clinic volunteers who will consume the rewards of their volunteerism.

Nov 27 **The Law Games**

Fundraiser Coffee House What a coincidence, Law Games raising \$\$\$ by selling beer. Very good preparation I think. Come and do some training for Law Games or just support the cause.

See you in the Common Room

Urgent Notice/ Message Important

This Wednesday at 12:30 PM in the Moot Court, a consultation session will be held for all students on **specific options** for changes to the McGill Law curriculum in future years. The importance of this meeting is clear. Issues to be discussed include the length of the program, the potential of a common entrance stream, and the teaching of common and civil law in a transsystemic fashion. These are important changes to our faculty and all students are strongly encouraged to attend.

This is your main chance for input since there is a potential final vote planned for November 28th at faculty council! After that this will be over and done with. If you have any concerns please make your voice heard on Wednesday.

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One U2, One Bono

STEPHANIE LEE
BCL I

My Sunday evening began with a flood of cuss words pouring out of my mouth. You see, I had yet to finish my delightful case comment. My Sunday evening ended in the early hours of Monday morning as I lay in bed, Bono's voice echoing off the walls, *Live Under a Blood Red Sky* spinning: "There's been a lot of talk about this next song, maybe too much talk, this song is not a rebel song, this song is *Sunday Bloody Sunday*!".

U2... The concert. One of a handful of acts in the world that could fill a 52 000 seat stadium, the only one that does it with a 700 square meter screen, a giant lemon and a great McDonald's-inspired golden arch towering 100 feet above the stage. The band has reached

the epitome of what our pop-culture classifies as rock icons, gods of the music world, adored by millions, and they can put on a good show too.

Yes, the special effects were awesome (the band standing in the centre of a giant lemon was a classic), the lighting elaborate and costume changes as surprising as they were frequent. But what it all came down to in the end was the music. The Big-O is renowned for its poor acoustics, but who even noticed? U2's sound is beyond comparison. As the decades have come and gone, they have established an unrivalled repertoire of legendary tunes... *Where the Streets Have No Name, I Still Haven't Found What I'm Looking For, With or Without You, One, Even Better than the Real Thing, Mysterious Ways, Sunday Bloody Sunday, New Year's Day, Pride, I Will Follow*

Miracle victory

MARIE-CLAIRE LEMAN
BCL II

In view of the absence of our faithful reporter at the last Malum in Se game, we thought it important to give you a brief account of what turned out to be a miraculous victory. The reporter wasn't the only one absent, and until Alex Otis showed up to prevent us from having to forfeit...he was the least of our

Texte ou PRÉTEXTE?

Good entertainment

PHILIPPE DUFRESNE
NAT IV

Nothing like listening to good music to inspire one to write an article. That's what was missing last week. That's why I failed to meet the deadline. This time around it's *Like a Rolling Stone* from the Master himself. Really, who else (except maybe Trudeau, for some!) but Mick Jagger continues to be compared to the Devil even after reaching his old age? You have got to love the man for providing such a perfect ending song (*Paint it Black*) to the Oscar-deserving movie *Devil's Advocate*. If you listen to one thing amidst all the rubbish I write in this semester, listen to this: Go see this movie. Go and feel the intellectual orgasm which shook me when Pacino screamed: "God is an absentee landlord!" If you're alone and need a companion to go see the movie, call me anytime!

Sur la même note positive, je me joins à Nadia *et al.* pour faire l'éloge d'*Omerta*. Quel épisode nous avons eu cette semaine! Qui l'aurait cru (à part ma mère)? En tous les cas, ça va brasser à partir de cette semaine. Préparez-vous à des affrontements sanglants. Nous n'avons pas vu le dernier règlement de comptes je vous le garantie! Et dire que j'ai un cours jusqu'à 20h30 chaque lundi soir... Par contre, si le beau Rick Bonnard fait vibrer Nadia, je dois dire que dans mon cas, je suis très impressionné par Gino Favarra. Avec son charisme et son

élégance, il redonne à la mafia l'allure classique que lui donnait ... Pacino dans *Godfather Part II*.

Meanwhile, I also experienced profound bliss Sunday night as I learned that *as I had predicted*, Mulder had *not* committed suicide and it was all a ploy to permit him to conduct his inquiry unbenownst to the FBI. It was worth the wait. My, my, Gillian Anderson is magnificent. But can de-ionized water really be the cure for her cancer? Apparently my avowed love for agent Scully is really quite ridiculous. Nonetheless, I am not ashamed to put it down *in writing* - this is, after all, a faculty that teaches common law.

Enough of entertainment review (who do I think I am, anyways?) On a more serious note, I must share with you a fascinating quote attributed to Bentham: "I think, therefore I am is the maxim of Descartes; I am, therefore I don't have to think is the maxim of the common law." I don't know about you, but this seems to me like a summary of the Real Estate Transactions class! Recall the rule that you have to institute litigation in order to receive a certificate of pre-litigation which alone enables you to register an oral agreement for the purchase of land, failing which your title is null before subsequent [...]. No wonder the ADR literature is so *pro domo*!

Toujours sur une note rationnelle, avez-vous déjà vu la publicité dans nos toilettes sur le Centre de réha-

bilitation Portage? Celle qui parle de Janis Joplin? Bon. On y lis la phrase suivante: "On est tous passés par là. *Personne ne juge personne.*" Heureusement, je ne suis pas toxicomane. Mais si c'était le cas, je ne voudrais pas aller à Portage parce que cette phrase-là veut dire, si je l'ai bien comprise: *Ici, tout le monde juge tout le monde* Vive les négations doubles!

Au fait, le problème des ordinateurs n'est toujours pas réglé. Une petite motion au LSA ne ferait probablement pas de tort. Si, comme moi, vous en avez marre d'attendre pour pouvoir lire vos messages ou corriger une lettre, parlez donc à vos président(e)s de classe. Je le répète, ce problème est récent de cette année et il mérite une attention particulière. C'est promis, je n'en parle plus (de toute manière, si ça continue, je ne pourrai plus écrire du tout, faute d'ordinateurs libres...!)

La semaine prochaine je vous parle des plaidoiries. En attendant, souriez et profitez de ces derniers jours de calme avant la tempête des examens et le déchaînement de l'hiver!

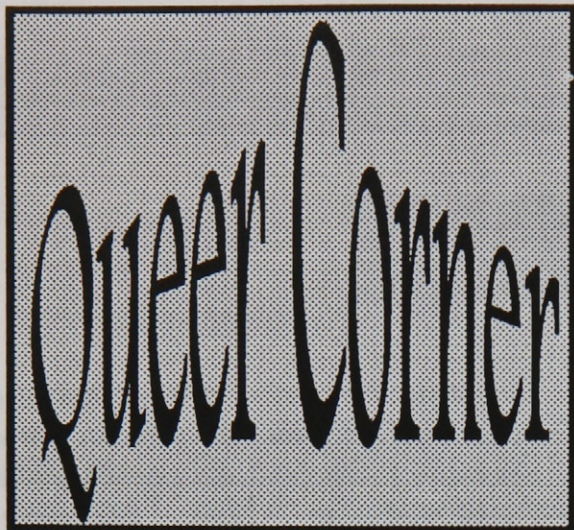
Philippe Dufresne is a fourth year cinephile who either adores or hates a given movie. He is about to begin writing a take-home exam for Business Associations, hence the more complaining tone of this article.

concerns (no offence White!). Indeed, we played with the minimum required players: six, including a goalie for a change! No supporters, no coaches and no one to warm the bench up...Meanwhile, our opponents had at least three complete lines, two coaches and a water-bottle boy.

We played the first 8 minutes shorthanded. We were able to keep the other team off the scoreboard in that time and throughout the whole game in fact! Excruciating hard work by the six of us (Alex, Kirsten, Vanessa, Roxanne, Dawn and M-C) enabled us to crawl away with a 2-0 win and to avoid a 100\$ fee for the

team....Mais on l'a échappé belle....

Although our performance was commendable we look forward to our next game amongst a more complete delegation.



JO-ANNE PICKEL

NAT IV

SEXUAL MINORITIES AND THE LAW

"Is it constitutionally inexcusable for the Alberta government to decline to choose between the platforms of the divinely-driven right and the rights euphoric, cost scoffing left, by refusing to order people of either sexual base to listen to government as to when they must forget that sexuality and contract together?" (McClung J.A. in the Alberta Court of Appeal in Vriend).

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After last Tuesday's hearing of the *Vriend* case in the Supreme Court of Canada, the answer to McClung J.A.'s question would appear to be a resounding "YES!".

The facts of the case are simple: Mr. Vriend was fired from his job because he is gay. His complaint to the Alberta Human Rights Commission was refused because Alberta's human rights legislation - the Individual's Rights Protection Act (IRPA) - does not include sexual orientation as a prohibited ground of discrimination. In fact, the Alberta government has deliberately and intentionally excluded sexual orientation as a protected ground despite recommendations from the Alberta Human Rights Commission over a twelve-year period that the ground be included. Vriend is now challenging the exclusion under s. 15 — the equality rights provision — of the Canadian Charter of Rights and Freedoms.

Though the Alberta Court of Queen's Bench found in favour of Vriend, its decision was overturned by the Alberta

Vriend v. Alberta: A Victory for the "Rights Euphoric, Cost Scoffing Left"

Court of Appeal. Each of the three judges at the appeal level gave his or her own reasons. The majority judgments provide clear illustrations of the kind of tortured reasoning judges come up with when faced with a case involving the issue of sexual orientation. McClung J.A.'s judgment reads more like a political treatise on how "rights restive", "constitutionally hyperactive", "legisceptical" judges have fallen prey to the "creeping barrage of the special interest constituencies" who have "conscripted the Charter" for their own selfish ends. McClung J.A.'s rhetorical flair would be ridiculously amusing were it not so profoundly disturbing due to his numerous homophobic and sexist remarks. (For example, he equates protection for gay men and lesbians with the validation of sodomy which he says would have the effect of "rebutting a millenia (sic) of moral teaching". He also implies that the inclusion of "sexual orientation" in the IRPA could be used to shield the violent sexually-deviant actions of men such as Jeffrey Dahmer, Clifford Robert Olsen, and Paul Bernardo.)

Fortunately, it seems that the Supreme Court is undertaking a much more sophisticated and legally defensible approach to the case. The court heard oral submissions from the appellants (Vriend and a number of gay and lesbian organizations), the respondents (the Government of Alberta), and 15 interveners last week.

The main argument (indeed, it seemed the *only* argument) put forward by the respondent was that the IRPA draws no distinction based on sexual orientation. That is, according to the respondent, the IRPA does not afford a benefit to heterosexual people which it denies to gay men and lesbians. It pointed out that gay men and lesbians have as much of a right to challenge discrimination based on the grounds included in the IRPA as heterosexual people do. For example, according to the respondent, gay men with AIDS may challenge discrimination based on their HIV status under the ground of phys-

ical disability just as any straight person can. (These remarks prompted McLachlin J. to ask - with impeccable timing - "So you're saying that gay men have to get AIDS to be protected by the Alberta human rights legislation?!")

The interveners on the respondent's side made more cogent arguments regarding the Charter's reach - that is, whether the application of the Charter to the IRPA has the effect of doing indirectly what the Charter cannot do directly (that is, regulate private action). Further, it was argued that the Alberta government should be allowed to take an incremental approach to the protection of human rights in the province by extending this protection gradually, presumably when the Alberta legislature determines that it is both necessary and politically wise to do so.

The appellants argued, however, that given the IRPA's purpose of ensuring the dignity of every individual, the exclusion of sexual orientation as a protected ground serves to create a discriminatory distinction, first, as between gay men/lesbians and people who may claim protection under the grounds currently included in the IRPA and, second, between gay men/lesbians and heterosexual people. The latter discriminatory distinction seems to be the most persuasive as it takes up an argument that was lost on both the respondents and the majority in the Court of Appeal. That is, even though the IRPA is neutral on its face, the decision to exclude sexual orientation has an adverse effect on gay men and lesbians because, by and large, they are the only ones who require protection from discrimination based on sexual orientation.

Further, the appellant argued that the very purpose of human rights legislation is to prevent the interests of minority groups from being subject to the will of majority groups within the population.

Cont'd page 11

Old MacDonald Had an Agenda

BRANDON RUDNIKOFF

LLBI

There has been a marked increase in the level of paranoia in recent years. This has led to the immense popularity of such conspiracy-driven shows as the X-Files and the usual alarmist rubbish from such film-makers as Oliver Stone, who has implicated just about everyone in his conspiracy theories except for Mickey Mouse, and that's only because he was conspicuously out of the country at the time. Needless to say, our collective paranoia has made some people, Oliver Stone included, very rich. (Perhaps there is a conspiracy to keep us paranoid going on here). Not being one to pass up such a wonderful opportunity, I have decided to capitalize on this trend and expose one of the great conspiracies of our time.

There have been many outlandish theories that place control of the country in the hands of a select few, outside public office, who act with impunity. In various instances such groups as the freemasons and the military-industrial complex have been implicated. This is, without a doubt, ridiculous. It is perfectly obvious that a much greater threat is presented by a very powerful group operating in plain view. I am speaking, of course, of our nation's farmers. The evidence will show that these people, who represent less than 5% of our population, and who are not even rich, have a disproportionate effect on the entire population.

For example, it is thanks to them that I have to go home in the dark every day at the end of classes. Daylight Savings is an artificial construct imposed on all of us, which is designed primarily for the benefit of these farmers. Most of us don't get up early enough to enjoy that extra hour of sunshine. By the same token, the lucky dairy farmer no longer has to wake up while it is still dark in order to milk his cows. This is highly suspicious to say the least.

Similarly, it is an established

fact that it is because of the so-called farmers that we have four months off from school in the middle of summer. This was designed to allow the children to help their parents with the harvest on the family farm. Modern technology and demographics has rendered these measures, for the most part, obsolete. Yet we are still following these archaic practices. I must admit, I am not entirely ungrateful for my summer vacation. However there are plenty of skiers who would not mind having this time, or at least a large part of it, off during the winter.

So far, I have raised issues that are unsettling but, for the most part, only annoying. It gets worse though. Several years ago, the nice people at Health and Welfare Canada visited my college promoting a colourful piece of propaganda known as the Canada Food Guide. Within its deceptively cheerful pages can be found recommendations to eat 2-3 servings of meat a day and 10-12 servings of grain products a day! This quite rightly seems to represent a lot of food, and we have not yet even discussed fruits and vegetables. A friend of mine approached these spokesmen and protested that these recommendations were outrageous. He would have to be eight feet tall and weigh something like 400 pounds in order to consume such large quantities of food daily. As I listened with horror, the worker from Health and Welfare Canada worker explained in hushed tones that the ideal consumption is actually only three servings of animal protein a week. An effort to reduce the recommendations to more reasonable levels in recent years caused such a storm with the farmers' lobby that the government was forced to raise the recommendations back up to 1950s levels. As you can see, like any good conspiracy theory worth its stripes, mine includes the involvement of the highest levels of government.

The real scam, however, is indubitably dairy products. The Canada Food Guide recommends the outrageously high amount of 2-4 servings of dairy products

a day. Milk is meant to fatten up babies. In fact, it is meant to fatten up baby cows. If you are not a baby cow, than you should not be having 4 servings daily, unless you want to get fat. That is why we all develop lactose intolerance to varying degrees after the age of sixteen. Yet we are bombarded constantly with an intense propaganda campaign urging us to drink large quantities since "it does a body good." Although our bodies do need calcium, dark green leafy vegetables like spinach are also an excellent source. It is interesting that the government has placed severe restrictions on the advertising and promotion of cigarettes and alcohol, while the dairy farmers of the world plug their message with impunity. They would have us putting cheese on everything.

What is really scary, though, is not that these people control virtually our entire food supply, nor is it that they seem to have the government in their back pocket. It is that these farmers maintain a harmless image that is questioned by virtually nobody. The farmer has long enjoyed a special place in our folklore that has contributed to the halo effect that surrounds them. Many of us have grown up listening to the seemingly innocent sounds of Old MacDonald's farm. The cluck, cluck here and the cluck, cluck there has lulled us into an unfortunate sense of security, trust, and reliance and created an illusion of the benevolent and innocent farmer. They are that much more frightening because of it, for, as we can see, it is quite a dangerous wolf that lurks under sheep's clothing in the agriculture industry. Although nothing serious has occurred yet, we can only pray that they are not plotting something more sinister. I am hopeful that with the trendy new surge in completely unreasonable paranoia and foolishly stupid fear-mongering, we will all be a lot more careful. Now that we know of them, we can keep a close eye out for anything suspicious. Farmers beware! The conspiracy nuts are watching.

Rwanda's genocide

KAREN ELTIS

BCL II &

MONIKA SCHIRDEWAHN

LL B III

On Monday, October 19th, the International Law Society proudly presented Christopher Harland, who spoke on the topic of "Rwandan Genocide and the Role of the Justice Tribunals".

Mr Christopher Harland, a lawyer by profession, completed his legal studies at the University of British Columbia. He subsequently clerked for the Federal Court and articulated at a Vancouver law firm. Mr. Harland's productive career with the UN began at the office of Legal Affairs in New York. From there he went on to work in Rwanda as a Justice Officer where he liaised with the local justice system, monitoring human rights violations. Currently, Mr. Harland works at UN headquarters in Kigali and is responsible for actively monitoring the trials of those accused of genocide and other war crimes.

Inevitably, a few class conflicts coupled with the infamous factum caused many of my poor fellow second year students and others to miss the event (much to their deep chagrin!). Although the discussion regarding the trials themselves was Mr. Harland's focus, before reviewing his comments on the domestic and international trials currently occurring, I believe that it would be best to briefly review the historical background leading to the Genocide, given the, how shall I say, sorry media coverage on the matter (CTV's Lloyd Robertson actually said "the Hutus are short and stocky while the Tutsi are tall and slim", in an attempt to enlighten us on the matter...).

Originellement, le Ruanda comprenait 19 clans africains distincts. Les colonisateurs allemands, trouvant un tel nombre de groupes ethniques difficile à contrôler efficacement, regroupèrent la

population en trois catégories arbitraires. La première, celle des Hutus, rassemblait principalement les agriculteurs provenant de l'ouest de l'Afrique et représentant approximativement 85% de la population. Le second groupe, celui de la minorité Tutsi, était formé de pasteurs arrivés en territoire ruandais ultérieurement. Finalement, le reste de la population s'identifiait (souvent malgré eux!) avec le Twa. Suite à la première guerre mondiale et à la défaite allemande, les Belges se virent accordés un mandat par la Société des Nations.

Adding insult to injury, and laying the foundation for what would later be a bloody ethnic genocide, the Belgians distributed identity cards according to nationality. Nationality was most scientifically determined by the amount of livestock owned by the person as well by "measuring noses to figure out who's who". These Hitlerian tactics, reinforcing an already artificial distinction, inevitably gave rise to the perpetuation of myths. These myths were deeply embedded in both the colonizers and their victims. Indeed, the Belgians, based on these fantastic myths, favoured the Tutsi minority and bestowed upon them various "privileges" unavailable to their Hutu counterpart, such as basic schooling or relatively better employment.

In 1959, concluding that with democracy on the rise it might be wise to favour the majority of the population, the Belgian colonizers began favouring the Hutu majority. They gave no regard for the impact their random shift of allegiance would produce on this victimized populace. Perhaps somewhat understandably, the Hutus, having been denied most fundamental rights for generations, misplaced their frustration on to those the Belgians had for years privileged, the Tutsi minority. Many Tutsis were driven into exile.

Le premier octobre 1990, le RPF, un mouvement Tutsi comprenant plusieurs exilés ayant fui les campagnes

de violence hutues de 1959, décida de retourner au Ruanda afin de "libérer" son pays, après avoir contribué au renversement du régime de Idi Amin en Ouganda. La guerre éclata, jusqu'en 1994 où l'armée de l'RPF pris la capitale, Kigali, et les Accords Arusha furent signés. L'objet de ces accords était le partage du pouvoir gouvernemental, l'organisation du retour des réfugiés tutsis et la protection des droits de l'homme. Les proches du Président (de nationalité hutue), connus sous le nom de 'Akazu' ou petite famille, craignaient que les accords entraînaient une diminution importante de leur pouvoir face aux tutsis. Par conséquent, la décision fut prise d'organiser secrètement le génocide, en recrutant des jeunes, entre 12 et 20 ans, membres d'équipes sportives, et en les transformant en escouades de massacres. Quelques mois plus tard, le Président fut assassiné, d'après plusieurs, par ses propres hommes, marquant ainsi le début du génocide.

As the massacres began, the Security Council did nothing and said little. The countries forming the Security Council were not interested in helping, reluctant to put their troops at risk and fearing a repeat of another Somalia disaster. According to Mr. Harland, when French troops finally moved in, their 'Operation Turquoise' was unable to prevent the massacres from continuing. Indeed, former colonizers of the region themselves, the French were deeply resented by the Tutsi, who regarded them as Hutu sympathisers.

In the process of this most vicious genocide, worsened by world apathy, the justice system equally perished. As everything was destroyed, the Rwanda justice system had to be reorganized. It did so on the basis of its past legal system and its experience with the genocides. It thus built upon its existing law, adapting and modifying it to deal with the horrible crimes committed in the previous years. On September 1st, 1996,

and the law

the *Loi sur le Génocide* was passed, three aspects of which are especially important to understanding the present tribunals concerned with prosecuting the crimes committed.

1-Double Criminality: In order not to prosecute those accused of crimes of genocide under a retroactive law which would extend guilt for crimes only defined after their occurrence, the people prosecuted are accused of a crime of genocide in addition to a crime already established in the Criminal Code. For example, an accused will be accused of committing genocide under the Genocide Law, in addition to being accused of murder under the Criminal Code, murder already being an established crime prior to the occurrence of the crime.

2-Categorization of Crimes: The crimes under the Genocide Law are classified into four categories. The most serious crimes are placed in the first category, and then divided up into a further four classes of crime: planning & organizing; acting as a local authority; being a notorious murderer who has shown zeal committing sexual torture. The punishment for a person having committed any one of these crimes is the death penalty.

The second category is comprised of the crimes of intentional homicide and serious acts against the person leading to death, the punishment of which is life imprisonment.

The crimes and offences against the person, and punished in accordance to the provisions of the Criminal Code, are classified in the third category.

The final category includes all offences against property, the punishment of which is to be forced to pay for the damage caused.

3-Confession System: In order to limit the number of people susceptible to the death penalty, the Confession System was implemented. It allows for substantial reductions in the penalties imposed on those found guilty of crimes of genocide. It is conditional, however,

upon following a certain procedure. The accused must (to simplify) (1) confess to what crime he has committed, (2) confess with whom he committed the crime, (3) express his apologies and (4) admit that he is guilty. The reduction of the penalty will in most cases then be granted, unless the accused is on "The List", in which case no reduction is allowed.

This system, although providing for a good basis in prosecuting those accused of genocide crimes, is difficult to implement, as a number of problems arise. A major problem is that some crimes as set out in the Genocide Law (such as the "sexual torture" crime which can lead to the death penalty) are new crimes and are not defined. Another problem is that the confession system is not working very efficiently. The procedure is difficult, it can only be followed through in certain places and many of the accused are understandably reluctant to tell on their fellow inmates.

In parallel to this domestic legal structure now in place, the International Criminal Tribunal in Rwanda is also attempting to prosecute those responsible for genocide crimes. Although receiving \$47 million last year in funding, it has not yet managed to hand down a judgment and has only had four trials, which is a source of some criticism in Rwanda, especially since the domestic courts have already tried two hundred people! Its jurisdiction is largely self-determined. The ICTR has priority in choosing what they want to prosecute. The ICTR is mostly there for the "big fish". However, it cannot impose the death penalty, which is another source of criticism, as some feel that it is unfair to punish those responsible for more in a less serious way.

Needless to say, both the legal and moral challenges faced by the domestic and international tribunals are enormous and reconciliation is extremely difficult, largely due to the artificial borders and ethnic grouping resulting from

the colonialist past. Many challenges face the Rwandan and international attempt to deal with the genocides, a major one being the over 120 000 people in jails awaiting trial, many of whom do not even know the reason for their detention! However, with the domestic Genocide Law in place, and increased efforts by the ICTR to justly deal with the situation, one can only hope that the law can help put some order in the chaos created by the genocide.

Let us never forget the millions who were brutally massacred in the Genocide.

I would just like to personally apologize most sincerely to all those who came hoping to hear Martin Luther King III speak last Friday. Le grand nombre d'étudiants qui se sont déplacés afin d'assister à cet événement malgré leur horaire chargé démontre l'intérêt qu'on éprouve face au domaine des droits de l'Homme et que les étudiants ne sont certainement pas indifférents à ce sujet. Je vous remercie de tout coeur en vous présentant toutes mes excuses sincèrement.

- Karen Eltis

THE LAND DOWN UND'A

CONT'D FROM PAGE 3

before then, we can crack a few jokes about her next time.

Two girls going to Tasmania (Yes. Uni is over!)

Dom and Steph

P.S. If you have questions that you are itching to ask us before we leave Australia, now is the time: s.johnson2@ugrad.unimelb.edu.au or d.lapierre@ugrad.unimelb.edu.au. And by the way, yes Rob, you are our number one U1 fan!

The Alumni Network Database: a useful tool for your upcoming job research

DOMINIC C. BELLEY

BCL II

CO-CHAIR, PLACEMENT
OFFICE & RESPONSIBLE FOR
THE ALUMNI NETWORK
DATABASE THAT EVERYONE IN
THIS FACULTY SHOULD USE,
INCLUDING YOU, FAITHFUL
READER OF THIS PAPER.

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Notre faculté de droit a eu le privilège à travers ses longues années d'existence de compter dans ses rangs des gens illustrent qui ont accompli de grandes (et petites choses), toutes extraordinaires, dans le domaine du droit et ailleurs. Nul doute, les gradués de la Faculté de droit de McGill sont actifs dans tous les domaines du droit et dans d'autres domaines on ne peut plus diversifiés. Pourquoi alors ne pas faire profiter aux étudiants de la faculté de toutes ces expériences et de toutes ces connaissances?

Voilà, le Réseau des Anciens est né!

The Alumni Network started with a survey distributed by the Faculty to all our alumni. In the survey, the alumni were asked general information (e.g. address, phone numbers, e-mail, etc.) La seconde partie du questionnaire contient de l'information sur le secteur de travail (c'est-à-

dire si le gradué travaille dans le secteur gouvernemental, dans la pratique privée, au niveau universitaire, etc.), sur les domaines de pratique (que ce soit en litige, corporatif, etc., nous avons identifié 28 domaines possibles alors, le choix est vaste), et finalement sur la taille de l'organisation pour laquelle la ou le gradué(e) travaille. Toute cette information a été classifiée dans une banque de données informatique sur support Access et près de 600 anciens y figurent!

This information gives us the background that we need in order to base our computer-assisted research. For example, you could ask the Network to provide you with all the names of the people living in New York. Further research could be based on the year of graduation, the bar called to, etc. Basically, all the information in the questionnaire can be the subject of a query.

Of course, you can make a query based on only one criterion if you want, but you can also specify your search and include as many criteria as you want. For example, a sophisticated search would look like the following: give me all the alumni in Montreal practicing labour law in a private firm of over 50 lawyers. Click a button and there you go. The Network will provide you with the information on how to reach the people who correspond to your search criteria.

The Alumni Network is here to stay (we hope!) and it will do what we want it to do. Therefore, **come and try** it as soon as you see the computer available in the Placement Office and please, give me your feedback. I will be pleased to help you with my experience and if you wish, I may offer you some brief training. Please send me an e-mail (belley_d@lsa...) if you are interested in using this wonderful program set up by my mentor Christian Bergeron, former co-chair of your Placement Office.

En terminant, comme tout bon planificateur doit voir loin et que les membres Bureau de placement se targuent d'être des planificateurs hors pairs, laissez-moi vous annoncer que la fin des cours aura lieu le 4 décembre et qu'après cette date nous serons tous en examens. Inutile. Inutile de le dire. En effet. Inutile de le dire, tout le monde le savait. Eh bien tant mieux, vous saviez donc que tout le monde, incluant les bénévoles du Bureau de placement, seront en examens. Ainsi, ils ne seront vraisemblablement pas disponibles pour répondre à vos questions si vous visitez notre local (qui restera ouvert tous les jours quand même, pour votre bon plaisir!). Profitez-en donc pour le mois qui reste pour utiliser à profit les heures consacrées à votre cause par nos généreux bénévoles. @ la prochaine fois.

Queer Corner

CONT'D FROM PAGE 6

Though incrementalism sounds nice in theory, the Alberta legislature has shown no movement toward protecting against discrimination based on sexual orientation. As the appellant argued, the Alberta government has taken an approach that is directly contrary to an incremental approach by repeatedly rejecting calls for the extension of protection to gay men and lesbians.

All judges on the Supreme Court seemed to accept that the Charter does apply to the IRPA, that a distinction exists and that it is discriminatory in that it deprives gay men and lesbians of a benefit that is enjoyed by heterosexual people and by groups that are protected under the grounds currently included in the IRPA. The court also seemed predisposed to finding that the violation of s.15 is not saved by s.1. The issue of remedy may be the only one that seems open to question. Instead of reading sexual orientation into the IRPA as a protected ground, it would not be surprising if the Supreme Court declares the IRPA invalid and suspends the declaration for a year to give the Alberta legislature the opportunity to redraft the legislation in conformity with the Charter. This less intrusive type of remedy might be the trade-off for what will almost certainly be seen as a "controversial" decision finding the IRPA in violation of s.15 due to the Alberta government's exclusion of sexual orientation as a protected ground.

According to McClung J.A.: "In the search for the just Canadian equilibrium it was not expected [with the advent of the Charter] that majority rights and interests would curtsy, endlessly, to minority rites." Despite the very real drawbacks of seeking social change through the courts, it is still comforting to feel like the government-sanctioned majority rite of discriminating against gay men and lesbians in Alberta will be forced to bow to the dictates of social justice in the form of full and equal rights for all minorities.



Case comment hype

BENJAMIN ARCHIBALD
LL B I

Happily, I'm finally sitting down to write without a mass of notes at my feet and all around the computer.

Well, one of the law school rites of passage is finally over and done with, the case comment. Throughout the past week you may have noticed first year students milling around the library consulting the Canadian Abridgement and invading the photocopying room. I am personally responsible for the death of at least four trees, and no, in the end I never read that article from the North Dakota Law Review. The case comment is an interesting exercise in as much as it provides first-years with an insight into the disposition of upper year students. We too can brood around Chancellor Day Hall complaining about the workload.

Sooner, rather than later, we have finally fit in with the wider law school community. Joking aside, I may have uncovered an invaluable lesson this past week: don't listen to the hype. Sure, law school is difficult and the workload is heavy, but there is no need to get bitter about it. If one avoids the hype, law school is somewhat manageable and even interesting. Notice that I still haven't experienced the second rite of passage at McGill, being marked by a law professor, so for now excuse my optimism.

It is interesting to note that the mood at McGill actually does change when assignments are handed out. Most students are still collegial, sharing notes and research (most notably my tutorial group- thanks guys!). However, some do go a little overboard on the competitiveness.

This leads me to look back nostalgically on the first weeks of law school, when there was no snow on the ground and people were playing frisbee on the lawn. Dean Toope told us that McGill was a unique place to study law, with a great atmosphere. On the whole he was right, but that was before the frisbees were put away in favour of the casebooks.

Until next year then, when it is my turn to create the hype surrounding the case comment, I leave you with the immortal words of my tutorial leader Andrea Wright, *adieu et bon courage!*

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PROCHAINE TOMBÉE:
LE MERCREDI, 12 NOVEMBRE 1997

NEXT DEADLINE:
WEDNESDAY, NOVEMBER 12, 1997

The Canadian Hut

SOULETTE GRAY

BCL II

The present Canadian Hut

Needs vital repair to end her immemorial rut
Her embellished and "civilized" tiles
Cannot hide the depth and miles
Of the story of her ground
And how it was "found"
Even though there were people there with sound
The "final constitutional say" was bought with the English pound
What goes around comes around
We cannot ignore forever the words the wind sang;
"Life can be a cruel boomerang"

The Canadian Hut is in turmoil

There is not much reverence left for her soil
Energy is being wasted in the form of superficial toil
Trying to buy time while the Hut is on the verge of a toppling spoil
Bureaucracy is taking its toll
I wonder who has the real control
I wonder who devised the "finesse" to imply
I wonder who has the "courage" to try
To convince thinkers that they need not ask the question why
Because the Canadian Hut is in good order and they can "justify"

The Canadian Hut is in shambles

I wonder whose duty it is to clean the horses' stables
I wonder where is the location of the political office in disguise
The mastermind that was developed to rationalize
The modern day "overseer" intended to trivialize
Is it the Office Of Indian Affairs
Or is this office the political and legal "big brother" that cares
I wonder if this is a last minute ploy from the Common Law
I wonder who is the drowning party catching at a straw
I wonder whose identity we have to erase
As the Common Law tries to save face

The Canadian Hut is plagued with confusion

I wonder if its challenges are seen as an illusion
I wonder if all this was someone's intention
I wonder which button is pushed to unnecessarily complicate
Human interaction with the intention to alienate



I wonder how many Canadians can truly relate
 To the definition of the Canadian Hut as great
 I wonder how many swallowed this definition of the Canadian Hut like a bait
 All the while thinking their behaviour natural and innate
 I wonder if now is the time or should we wait
 I wonder if we should act consciously or drift with the winds of fate...

The walls of the Canadian Hut have eyes

I wonder how many people realize
 That it is possible to institutionally minimize
 The volume of people's cries
 While simultaneously raising the volume of the lies
 That are responsible for breaking human ties
 I wonder how we can ever surrender the defensive
 I wonder if the friction against change is more dollars and less incentive
 I wonder if the infamous "Learned Hand Formula" is really that substantive
 To the point of "legitimizing" the proposition that change is too "expensive"
 I wonder if the change to our *status quo* will for some to be too "daunting" and "disruptive"

The Canadian Hut has no systemic integrity

Its roof was built upon the walls of Native Dignity
 The question of ownership in all its forms and fancies is at bay
 I wonder which legal system understands the issue "the right way"
 Looking at the Canadian Hut, I wonder, in all civility, who owns the door
 Since it is a part of the wall and it too touches the floor
 I wonder how much energy the walls have left to consciously implore
 The roof, and how long the walls will endure
 The weight of the roof and more
 I wonder what is legally in store
 For the roof, since the walls, attached to the ground, were there before

The Canadian Hut is grappling with theoretics

I wonder if a new Canada would be better off reshaped fundamentally with fair ethics
 Or would it be better protected in superficiality with "gortex" and synthetics
 I wonder if time should take care or should we legislate
 I wonder which is more harmonious, to accept one another or to tolerate
 I wonder if it is all comes down to the "simple" issue of pride
 Or as "complicated" as finding a common Canadian identity nationwide
 I wonder, in the fall, whose blood is in the leaves of The Maple tree
 I wonder if we can simultaneously be a "country" and a "pays"
 I wonder, Oh Canada, when will we sit at ease with thee
 I wonder, in whose hand
 Belongs the land
 Called Canada

Casino Confessions: or Library Research for my Case Comment or The Death of the Power of Discrimination

PAIR-OF-FOURS FREIHEIT
1ST YR. LL B

14

So I don't know the time.
They make it so we never know the time in here.
No windows, dim lighting, sounds from the outside world blocked out.
I've been here all night, haven't I. I just came by a minute ago in between classes, didn't I.
Better lighting in the new one? No chance. This is how they get us to stay.

And they make it so we'll spend all our money before we leave.
Just spill coins into the machine and add more and more and more to the copycard. To my little crystalgrey
MagicCard, my key to endless bounds of information.

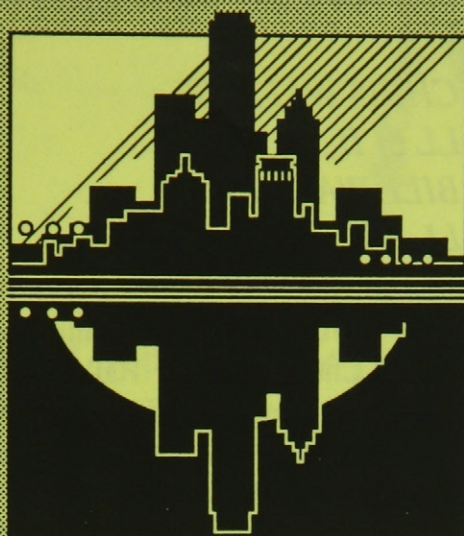
I wait my turn to copy. To copy whatever, who cares, haven't bothered to look the stuff over first. But its stuff
that says something that I may need to read sometime.
And it's mine if I push the little green button, all mine.

I push fast enough so the machine doesn't rest between copies—there are ways we have of telling the good
ones from the rest.

I run to refill my Grey Source when it's run its course.
They leave refill machines closeby so we'll never go too far.
On the way, I meet a classmate, someone from the Outside. We size each other up, try to catch a peek of what
the other one is hiding in their hand.
"So, uh, whatd'ya got there, eh?"
"Hmm, oh, just some case."
"Yeah, huh, yeah. I've got just some case too."

I strut back to the photocopy room, smirking. I know I've called the bluff.

The smell and the heat of the room suffocate me. All I can see is the red HELLO, and I approach it in a trance
with extended arm.
"Hello there."



The humming of the machines hypnotizes me. I can't leave, I must never leave this room. I grab a reporter from the reshelving bin and start copying from it.

My law partner comes in, he's been in this place longer than I have. He knows the ropes, what tables to go to. But all I can see is the prey in his hands.

"Hey there."

"Hey."

"So, uh, whatd'ya got there, eh?"

"This? Oh, just some stuff for my paper."

"Oh, yeah, yeah, uh...say, you think I can look it over?"

"What're you talking about?"

"You know, uh, just kind of give it a little look, to see if we're thinking along the same lines, you know, if we're getting the same thing out of the cases, or--"

"What's the matter with you? I'm working on a factum."

"Right, right, I just thought, you know--"

"No, no, I don't know."

I'm sweating and twitching spasmodically. He's showed me out, the damn uppereye. With his fancy little pile of papers snug in his clasp. And he's got something in there I need. I know it. And I'm staying here until I get it. It and everything else. Articles, cases, case comments, statutes, legal encyclopedias, textbooks, anything. Because that quintessential something is somewhere in this place.

I turn back to the machine, leaning over it for revitalization as it performs its task. I am captivated.

Invigourated.

Someone interrupts.

"You gonna be here much longer?"

I laugh demonically, the light of the photocopying rays illuminating my face.

"We all are."

- Jessica Freiheit, LL. B. I

Ottawa's double feature

CONT'D FROM PAGE 1

fundity, and just long enough for the poor lawyer to think he was finished. Conscious that her time was running out, she made several valiant attempts to jump in, but Gonthier J. was a judicial juggernaut and continued to muse to his microphone — presumably for the benefit of all. Apparently, this outburst is quite out of character for him.

After Lamer CJC called it quits for the morning, we were fortunate enough to get a special tour of the building. Apparently, McGill sends more clerks to the Supreme Court than any other school which, of course, stands us in good stead when we visit. I don't want to give anything away, but I highly recommend the tour....

The reverence and decorum so evident at the Supreme Court stood in marked contrast to the mayhem I witnessed in the House of Commons that afternoon. All the major players were there — Preston "Does an Armani suit go with shitkickers?" Manning, Gilles "I'll never go to a cheese factory again" Duceppe, and the only PM in Canadian

history who speaks neither of our official languages.

The funny thing was that, in spite of all the screaming, pounding, and mocking laughter, I had the sense that everyone was having a really good time. At one point, Mr. Duceppe and Allan Rock even appeared to be sharing some private joke - what with all the winking, pointing, and smiling going on between them.

Some of the exchange students with whom I was seated doubted whether this kind of raucous behaviour

Day. Traditionally, a moment of silence is marked at the eleventh hour to commemorate the signing of the armistice following the first world war, and to recall the horror of war.

We respectfully suggest, if you have classes in the late morning on that day, that you arrange with your professor to pause for a moment of silence. Lest we forget...

Remembrance Day

CHRIS WATERS

LL M II

BILL WAGNER

LL B II

Just inside the front door of Old Chancellor Day Hall, on the right hand side, lies a list of McGill Law graduates who gave their lives in service to Canada.

Tuesday is Remembrance

can really pass for 'peace, order, and good government' and, in a historic show of support for Major J., I concurred.

Just in case you haven't gotten it yet...I had a really good time. Everyone who hasn't gone yet should go a.s.a.p. Special thanks to Nora Bednarski and Jo-Anne Pickel, who were responsible for a lot of the organization, and also to Professor Harvison-Young, without whom this adventure wouldn't have been half as informative or nearly as much fun.

The Canadian Hut can be improved

It is highly probable, mountains can be moved

I wonder if it is still possible to integrate

Into the foundations of a truly Canadian made Constitution or is it too late

To create a state Canadian Hut free from historic and organized hate

Without the need to constantly find a group among ourselves to berate

I wonder if the true potential of the Canadian Hut can ever become real

I wonder how that would feel

If all round edifying repairs to the Canadian Hut took to the wheel

I wonder What that would reveal

I wonder if there would still be hearts made of steel

I wonder how many people this would heal

I wonder who could resist this most human appeal

I wonder, when the rebuilding is done and we gather around a common table for a meal

How many tears we could conceal.

The Canadian Hut

CONT'D FROM PAGE 13